

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KENNETH CHARLES LASSITER and  
ALPHA DORIS D. LASSITER,

Plaintiffs,

v.

CITY OF BREMERTON, MATTHEW  
THURING, JOHN VANSANTFORD,  
ROBERT FORBES, BREMERTON POLICE  
CHIEF, et al.,

Defendants.

Case No. C05-5320RBL

ORDER DENYING MOTION FOR  
CLARIFICATION/RECONSIDERATION

This matter is before the court on the Plaintiff's Motion for Clarification [Dkt. #136] of the Court's Order on Dalton Discovery [Dkt. #133]. That Order declined to quash a subpoena to Ms. Dalton seeking the production of the transcript prepared by Ms. Lassiter, and rejected the Plaintiff's claim that the transcript was protected from discovery by the work product immunity or by the attorney client privilege.


The Plaintiffs now claim that the "transcript" at issue is not in Ms. Dalton's possession (she apparently has one prepared by someone else), and that their attorneys have at least one such transcript, but that the Court's prior Order does not specifically apply to them. Though captioned a Motion for Clarification, it is clear that the Plaintiffs seek Reconsideration of the Court's ruling, and re-argue that the transcript (actually *transcripts*) were prepared for or by counsel. It is also apparent that there are several different transcripts of the arrest incident.

However, the subpoena at issue sought the transcript made by Mrs. Lassiter immediately after the arrest, as described by her in a previous Affidavit. That transcript is not privileged or work product, and even if it were work product, the Defendants have in fact shown substantial need for it – due to the anomaly, it may be the best evidence of what was actually said. That version – whoever has it – must be produced. Transferring it from Ms. Dalton to another attorney is not effective to preclude it from discovery. And any transcript in Ms. Dalton’s possession is to be produced by her consistent with the Court’s prior order.

Plaintiff now claims that there are several remaining versions of the transcript. As for these, the privilege or immunity may or may not apply. It is clear that the Plaintiffs' version of events as to the number, timing, method, and purpose of the transcriptions is evolving. The court will reluctantly ORDER that all remaining versions of the transcript be produced, and labeled as to author/transcriber and date, for *in camera* review within ten days of the date of this order. The Plaintiffs shall provide to the Defendants a list of the various transcripts, including who made them and when. The Court will then rule on the discoverability of the remaining transcripts.

IT IS SO ORDERED.

DATED this 17<sup>th</sup> day of August, 2006

  
RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE